

### **REMARKS**

Claims 1 and 10 have been amended, claims 2 and 6-9 have been canceled, and claims 42-45 have been added. As a result, claims 1, 3-5, and 10-45 are pending in this application.

The claim amendments, cancellations, and additions, further clarify the scope of the invention. Support for the new claims can be found throughout the specification.

Claims 1 – 41 were rejected under 35 USC §102(e) as being anticipated by Baney et al. (U.S. 7,116,427).

In this application, Baney (U.S. Patent No. 7,116,427) is cited by the Examiner as a §102(e) reference. However, Baney was filed on October 30, 2003, which is less than the filing date of the present application (which was filed on April 15, 2004). Applicants herewith submit a Declaration under 37 CFR 1.131 by the co-inventors, Olivier Theytaz, Olivier Mathis, Baptiste Merminod and Pascal Eichenberger, which establishes that the inventors conceived of the invention prior to the effective date of the Baney reference, which is October 30, 2003. Evidence of Applicants' conception of the invention prior to October 30, 2003 is included, along with evidence of subsequent diligence in constructive reduction to practice. Accordingly, Baney is no longer considered anticipatory art. Applicants submit that the rejection of claims 1 - 41 has been fully addressed. Reconsideration and withdrawal of this reference as a basis for the 35. U.S.C. §102(e) rejection is respectfully requested.

### **Conclusion**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (408-528-9603) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-2823.

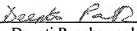
Respectfully submitted,

OLIVIER THEYTAZ ET AL.

By their Representatives,

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